



## APPELLATE PRACTICE SECTION

**APPELLATE PRACTICE SECTION**  
Respectfully submits the following position on:

\*

**SB 0652**

\*

The Appellate Practice Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Appellate Practice Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Appellate Practice Section is 667.

The position was adopted after an electronic discussion and vote. The number of members in the decision-making body is 23. The number who voted in favor to this position was 16. The number who voted opposed to this position was 0.

**APPELLATE PRACTICE SECTION**

**OFFICERS**

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**COMMISSIONER LIAISON**

Hon. Michael J. Riordan, Detroit

November 1, 2013

State of Michigan House of Representatives  
Committee on Government Operations  
Anderson House Office Building  
124 North Capitol Ave.; P.O. Box 30014  
Lansing, MI 48909-7514

Re: SB 652

The Appellate Practice Section of the State Bar is comprised of attorneys who devote all or much of their practice to representation of clients in matters before the appellate courts. The Council of the Appellate Practice Section has voted to take a position in opposition to Senate Bill 652.

The Court of Claims is now a function of the Ingham County Circuit Court. SB 652 would transfer Court of Claims cases to a newly reconstituted Court of Claims consisting of four Court of Appeals judges appointed by the Supreme Court. The Section is concerned that this proposed legislation may have an adverse impact on the fair and efficient administration of appellate justice in Michigan. There is a general concern that Court of Appeals Judges are best equipped to handle disposition of appellate matters, and it would be inefficient to require four of them to serve in dual roles as both appellate and trial court judges – a role which may cause additional delays in the adjudication of appeals. The number of Court of Appeals judges will be reduced in coming years by four judges by attrition. Further dividing the attention of four remaining judges by having them serve in the dual roles may adversely affect the Court of Appeal's ability to timely decide its cases.

The Section is also concerned about how appeals from decisions of a newly constituted Court of Claims will be handled. MCL 600.308(1)(a) provides that final judgments of the Court of Claims are appealable of right to the Court of Appeals. This raises the question of how decisions of Court of Appeals judges can be reviewed by other Court of Appeals judges; how panels will be selected to hear and decided these appeals; and the necessity for disqualification of Court of Appeals judges from hearing such appeals. Simply put, having a court review, on appeal, decisions from itself, is unprecedented.

Members of the Section hope to testify at upcoming hearings regarding the legislation, and are willing to work with the Committee and any other interested legislators to address these, and other concerns regarding the Bill.

  
Jill M. Wheaton; Chair, Appellate Practice Section

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Committee on Gov't. Operations

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cc:

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Speaker of House Jase Bolger  
House Democratic Leader Tim Greimel  
Senate Majority Leader Randy Richardville  
Senate Minority Leader Gretchen Whitmer  
Senator Rick Jones